

PREET BHARARA
United States Attorney for the
Southern District of New York
By: TOMOKO ONOZAWA
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN R. LIEGEY, 115-87 OWNERS' CORPORATION,
SELECT PORTFOLIO SERVICING, INC., and JOHN
DOES 1-10,

Defendants.

ECF Case

08 Civ. 3865 (PAC)

AMENDED ORDER TO VACATE

WHEREAS, Plaintiff, the United States of America, by its attorney Preet Bharara, United States Attorney for the Southern District of New York, having requested and granted the foreclosure of its liens upon defendant John R. Liegey's ("Liegey") interest in 278 shares of 115-87 Owners' Corporation and a proprietary lease for Apartment 39D, at 115 East 87th Street, New York, New York (the "Apartment"), and the United States having requested and granted an Order of this Court dated December 10, 2009 ("First Order to Vacate") [Docket No. 51] that defendant Liegey and all other persons acting in concert with, or on behalf of him, or residing thereon, vacate and depart from the Apartment by 12:00 p.m. on the thirtieth (30th) day of the date of the First Order to Vacate, or January 11, 2010;

WHEREAS, Viva Bhogaita, who is currently occupying the Apartment with the permission of defendant Liegey, has asked the United States that she and all other persons acting in concert with defendant Liegey, or on his behalf, or residing thereon, be permitted to vacate and depart from the Apartment no later than 9:00 a.m. on Tuesday, January 19, 2010; and

WHEREAS, the United States, upon consultation with the United States Marshal and the Court-Appointed Receiver for the Apartment, Scott Claman, Esq., of Giddins & Claman LLP, has consented to Viva Bhogaita's request and good cause having been found;

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the First Order to Vacate is hereby amended as follows: defendant Liegey, Viva Bhogaita, and all other persons acting in concert with, or on their behalf, or residing thereon, shall, no later than **9:00 a.m. on Tuesday, January 19, 2010**, vacate and depart from the Apartment; and

IT IS FURTHER ORDERED that, the United States is authorized under the supervision and with the assistance of the United States Marshal to enforce this Order and to take all necessary steps to take possession of the Apartment, at any time that it deems appropriate after **9:00 a.m. on Tuesday, January 19, 2010**, including breaking open and entering said premises and evicting all persons located within said premises; and

IT IS FURTHER ORDERED that, anyone interfering with the execution of this Order is subject to arrest by the United States Marshal and/or his representative; and

IT IS FURTHER ORDERED that, when the United States, on whose behalf the Court issues this Order, concludes that all unauthorized persons have vacated, or been evicted from the Apartment, it shall relinquish possession and custody of the Apartment, and any personal property found thereon, to Scott Claman, Esq., of Giddins & Claman, LLP, the Receiver for the Apartment; and

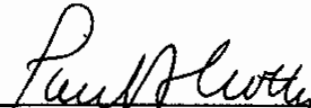
IT IS FURTHER ORDERED that, should defendant Liegey, Viva Bhogaita, or any

person acting on their behalf, or in concert with them, or residing thereon, either fails to vacate and depart from the Apartment, 9:00 a.m. on Tuesday, January 19, 2010, or attempt to enter onto the premises after that date and time, that person shall be subject to being found in contempt of this Order of this Court, which may subject that person to a fine, incarceration, or both; and

IT IS FURTHER ORDERED that, the United States Attorney's Office, with the consent of Viva Bhogaita, provide notice of this Amended Order by sending it, via overnight mail, to the attention of Viva Bhogaita, 115 East 87th Street, Apartment 39D, New York, New York, 10128.

Dated: New York, New York

January 12, 2010



HONORABLE PAUL A. CROTTY
United States District Judge



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street, Third Floor
New York, New York 10007

January 12, 2010

BY E-MAIL (CrottyNYSDChambers@nysd.uscourts.gov)

The Honorable Paul A. Crotty
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 735
New York, New York 10007-1312

Re: **United States v. Liegey, 08 Civ. 3865 (PAC) (DFE)**

Dear Judge Crotty:

This Office represents plaintiff United States (the "Government") in this action against defendant John R. Liegey ("Liegey") seeking to reduce to judgment assessments of certain of Liegey's federal tax liabilities, and enforce and foreclose on tax liens upon personal property owned by Liegey, namely, 278 shares of stock in 115-87 Owners' Corporation, and the proprietary lease for Apartment 39D located at 115 East 87th Street in New York, New York ("the Apartment").

On December 10, 2009, Your Honor granted the Government's motions for an order appointing Scott Claman, Esq., of Giddins & Claman LLP to serve as receiver for the Apartment [Docket No. 50] and for an order directing Liegey to vacate the Apartment within 30 days of the date of the order ("Order to Vacate") [Docket No. 51]. In accordance with the Order to Vacate, on December 17, 2009, the U.S. Marshals Service posted a copy of the Order to Vacate on the front door of the Apartment. See Process Receipt and Return, annexed as Exhibit A.

However, when the U.S. Marshals Service and Mr. Claman arrived at the Apartment at 1 p.m. this afternoon to proceed with the eviction, they learned that Liegey's former spouse, Viva Bhogaita, is currently residing at the Apartment with their two children, in violation of the Order to Vacate. At Ms. Bhogaita's request, the Government, upon consultation with the U.S. Marshals Service and Mr. Claman, has consented to giving Ms. Bhogaita and her children an extension of time until Tuesday, January 19, 2010 at 9:00 a.m., to vacate the Apartment with their personal property. Therefore, the Government respectfully requests that the Court endorse and docket at its earliest convenience the proposed Amended Order to Vacate, annexed as Exhibit B.

Hon. Paul A. Crotty
January 12, 2010

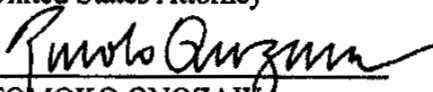
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We thank the Court for its consideration of this request.

Respectfully,

PREET BHARARA
United States Attorney

By:


TOMOKO ONOZAWA
Assistant United States Attorney
Telephone: (212) 637-2721
Facsimile: (212) 637-2686

Enclosures

cc: VIA E-MAIL (with enclosures)
Thomas DeCaro, Jr., Esq.
John L. Overland, Jr., Esq.
Geraldine A. Cheverko, Esq.
Scott Claman, Esq.

EXHIBIT A

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See "Instructions for Service of Process by U.S. Marshal"

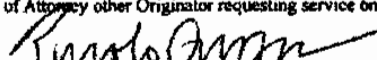
PLAINTIFF UNITED STATES OF AMERICA		COURT CASE NUMBER 08 Civ. 3865 (PAC)	
DEFENDANT JOHN R. LIEGEY		TYPE OF PROCESS PERSONAL SERVICE	
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN John R. Liegey and/or any occupant of 115 East 87th Street, Apartment 39D, New York, New York, 10128		
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) 115 East 87th Street, Apartment 39D, New York, New York 10128		
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW		Number of process to be served with this Form 285	1
Tomoko Onozawa, AUSA U.S. Attorney's Office - SDNY 86 Chambers Street, 3rd Floor New York, NY 10007		Number of parties to be served in this case	1
		Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

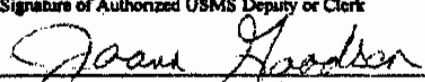
Fold

Fold

By Monday, December 21, 2009, please hand-deliver a copy of the annexed Order to Vacate issued on December 10, 2009, in United States v. Liegey, et al., 08 Civ. 3865 (PAC), to any occupant of the above-referenced premises. If no one is available at the time of hand delivery, please post the Order to Vacate on the front door of the above-referenced premises.

Signature of Attorney other Originator requesting service on behalf of: 	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER (212) 637-2721	DATE 12/14/09
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SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process 52	District of Origin No. 54	District to Serve No. 54	Signature of Authorized USMS Deputy or Clerk 	Date 12/17/09
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I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)

POSTED ON Apartment Door 39 D.

Address (complete only different than shown above)

☒ A person of suitable age and discretion then residing in defendant's usual place of abode

Date
12-17-09 Time
2:30 ☐ am ☒ pm

Signature of U.S. Marshal or Deputy

 C. P. #9930

Service Fee 55.00	Total Mileage Charges including endeavors 8.47	Forwarding Fee	Total Charges 63.47	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*) \$0.00
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REMARKS: 12-17 - NO ANSWER AT Apt door. Process was

Posted on Apt door.

PRINT 5 COPIES:

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

08-3865-1 ✓

Form USM-285
Rev. 12/80

EXHIBIT B